

Dear Division Counsel Phillip Sanchez,

As an American Heart Association advocate and proud New Mexican, I'm deeply disappointed in the current proposed rules for tobacco licensing. Strong enforcement and compliance are critical to the success of this program and in reducing the use of tobacco and e-cigarette rates among our youth. The recent release of youth tobacco use data supports the need for more stringent tobacco control practices that address all flavors and all products. One in five high school students are using e-cigarettes and more than 80% of those young people using flavored e-cigarettes. A 2019 New Mexico Department of Health survey found that 34 percent of New Mexico high school students used e-cigarettes at least once in the last 30 days. New Mexico youth e-cigarette use continues to grow at an alarming rate, creating the next generation of youth who are addicted to nicotine and who could potentially suffer from heart disease, stroke, hypertension and lung cancer.

The proposed rule in sub-section [15.8.7.8](#) (A): COMPLAINTS AND INVESTIGATION is NOT definitive in its intent to effectively monitor and prevent the sale of tobacco products, including e-cigarettes, to minors. It conveys a false sense of security to New Mexicans, especially to parents of underage children, that the Alcohol Beverage Control Division is serious about stopping the tobacco sales to minors. The AHA recommends this section be amended to include stronger enforcement language, such as the following: "The division, the department of public safety and/or appropriate law enforcement authorities must/shall conduct a minimum of at least one compliance check for violations of minimum legal sales age per tobacco retail license per year. Any violations found through compliance checks must/shall also require a subsequent recheck within three months of the violation."

The proposed rule in sub-section [15.8.7.8](#) (A) sends an unequivocal message to the tobacco industry and its retail outlets that the state of New Mexico is not serious about monitoring their activities, including aggressively marketing to youth and selling tobacco products to those underage. The Alcohol Beverage Control Division would be in the dark without proper enforcement checks even with minor administrative requirements such as whether tobacco retailers are properly displaying their licenses or posters; and whether the signs that read "IT IS ILLEGAL FOR A PERSON UNDER 21 YEARS OF AGE TO PURCHASE TOBACCO PRODUCTS" are placed at the location. Without a strong enforcement program, the proposed rule in sub-section [15.8.7.8](#) (A) fails to uphold the fundamental intent of the Tobacco Products Act to effectively curtail the illegal sale of tobacco products, including e-cigarettes, to New Mexican children.

Please strengthen these rules and let's work together to save lives in New Mexico!

Regards,
Jimmy Martinez